

Remarks

Claims 25-48 are pending in this Application. Claims 1-24 and 49-67 have been previously canceled without prejudice. In the Office Action mailed October 10, 2007, the Examiner rejected Claims 25-48 under 35 U.S.C. § 103(a) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a), as being unpatentable over JP 11-010631 (Matsushita Denko Kabushiki Gaisha, herein "Matsushita").

Matsushita clearly teaches a method for making thin cement plates using a small batch processing technique, which is a Fourdrinier method for making paper (see Claim 1 and para. [0008] as examples). In the method of Matsushita, cement plates are prepared by reusing *filtered water*--also referred to as white water--that has a low COD content. In Matsushita it is only the *filtered water* of Matsushita that is described as having a COD content of 5 ppm or less, which, on a thorough review of the reference, is because Matsushita refers to "pulp COD" as a preparation in which water is suctioned from the solids content through a dehydration felt and it is such a *filtered* preparation that has a COD content of 5 ppm (see para. [0005], [0007], [0011] as examples). This in no way means that pulp or cellulose fibers of Matsushita have a COD of 5 ppm. Instead Matsushita clearly describes a thin cement plate process as requiring a small batch of a cement material and pulp (240 g total by dry weight) to be mixed in a 10:1 ratio with a solids content by weight of 10% that is added with distilled water and mixed by a mixer for 5 minutes (see Claim 1, para. [0005], [0006], [0012] as examples). The pulp of Matsushita is provided by a Fourdrinier method. As is known to a person skilled in the pertinent art, when using a Fourdrinier method, pulp is provided either as a slurry (fiber-water mixture) or as dried sheets. Matsushita does not state whether the pulp that is added in the form of a slurry or a dried sheet. Matsushita also does not state what the COD content of the pulp is that is added to the cement material. Nor is the COD content of the fiber, itself, clearly suggested or described in Matsushita. In fact, Matsushita does not teach or suggest anything about COD of fiber and Matsushita teaches absolutely nothing about chemical oxygen demand and residual molecular oxygen of fibers. Instead, Matsushita merely measures the COD content of *filtered water* that is obtained after mixing the cement material, fiber and water for 5 minutes. There is no known correlation between COD content in *filtered water* and COD content

in fibers. Importantly, the COD content of the *filtered water* in Matsushita is measured only after it is collected as a filtrate, which is specifically described as occurring after placing the solids content on a dehydrating felt and suctioning off the water from the solids content (see para. [0008], [0009] as examples). Thus, it is the suctioned water that is measured for COD content and Matsushita does not state how the COD content of the filtered water is actually measured. As is known to one skilled in the pertinent art, when using a Fourdrinier method, a dehydrating felt is specific designed to maximize water absorption, therefore, little suctioned water is actually collected. This, then, biases any measurement of COD collected in the *filtered water* after solids are placed on the dehydrating felt. In fact, one may reasonably state that a low COD content of *filtered water* means that COD content remains high in the solids. As such, the teachings of Matsushita may be taken to reflect a high COD content in fibers. Importantly, it is clear that the teachings of Matsushita do not reflect anything about any actual COD content in fibers. Thus, upon a thorough reading of Matsushita, the reference does not teach or suggest explicitly or implicitly at least a portion of fibers are cellulose fibers with reduced COD content to less than 4.5 kg/ton, as provided with independent Claims 25 and 33 from which all other claims depend. To anticipate the claims, Matsushita must teach and every element of the independent claims, which it does not. Accordingly, Matsushita does not anticipate the claims.

Matsushita also cannot be relied on to show that Applicants' claimed invention is unpatentable. It is noted that on page 3 of the Office Action the Examiner has relied on excerpts of information extracted from para. [0012] of Matsushita; however, as presented previously, the information that is relied on by the Examiner is taken out of context because Matsushita does not teach or suggest the pulp (or fiber) COD is 5 ppm. In fact, Matsushita does not teach or suggest anything about pulp (or fiber) COD or anything about the COD content of the pulp (or fiber) used to make its thin cement plates. The extracted information used by the Examiner does not suggest anything about fiber COD content because it only teaches about the COD content in the extracted or filtered water. As such, there is no suggestion of any kind that can be relied on by Matsushita for a showing of obviousness. Matsushita does not provide any suggestion or motivation to reduce fiber COD content. Matsushita only teaches about reducing COD content in *filtered water* when

extracted from a cementitious mixture, which is clearly not the same thing. One of ordinary skill in the art would not be able to look to Matsushita—which is a teaching for reducing COD in white water (filtered water)—and arrive at Applicants' claimed invention. Matsushita provides no expectation for success as to Applicants' claimed invention because it teaches something very different from Applicants' claimed invention. Finally, Matsushita does not teach or suggest all the features of Applicants' claimed invention. Thus, Applicants have shown that Matsushita is not obvious over their claimed invention. Applicants' respectfully request the Examiner remove the rejections under 35 U.S.C. § 102(b) and under 35 U.S.C. § 103(a).

With this paper, Applicants respectfully request entry of amended Claims 25 and 33, amended to correspond with claims language entered in an Examiner's amendment and mailed on July 23, 2007. Because the Examiner's amendment was accompanied by a Notice of Allowance that was withdrawn on July 31, 2007, Applicants are now entering the same amended claims for the record and accepting the Examiner's amendment mailed July 23, 2007. With this paper, Applicants have canceled without prejudice Claim 39. Claims 34 and 44-48 have been amended as to matters of form and introduce no new matter.

With this paper, Applicants are intending to bring prosecution to a speedy conclusion. No new matter has been included with this reply and no new issues requiring further consideration and/or search have been introduced with the amendments set forth herein.

Conclusion

Applicants respectfully submit that the Application is in condition for allowance, and pursuant to the filing of this amendment and response, Applicants earnestly seek such allowance of Claims 25-38 and 40-48 as provided in the Listing of Claims beginning on page 2 of this paper.

Should the Examiner have questions, comments, or suggestions in furtherance of the prosecution of this Application, please contact Applicants' representative at 214.999.4330. Applicants, through their representative, stand ready to conduct a telephone interview with the Examiner to review this Application if the Examiner believes that such an interview would assist in the advancement of this Application.

To the extent that any further fees are required during the pendency of this Application, including petition fees, the Commissioner is hereby authorized to charge payment of any additional fees, including, without limitation, any fees under 37 C.F.R. § 1.16 or 37 C.F.R. § 1.17, to Deposit Account No. 07-0153 of Gardere Wynne Sewell LLP and reference Attorney Docket No. 129843-1022. In the event that any additional time is needed for this filing, or any additional time in excess of that requested in a petition for an extension of time, please consider this a petition for an extension of time for any needed extension of time pursuant to 37 C.F.R. § 1.136 or any other section or provision of Title 37. Applicants respectfully request that the Commissioner grant any such petition and authorize the Commissioner to charge the Deposit Account referenced above. Please credit any overpayments to this same Deposit Account.

This is intended to be a complete response to an Office Action mailed October 10, 2007.

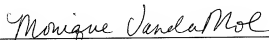
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AMENDMENT AND RESPONSE
Application No. 09/970,389

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Please direct all correspondence to the practitioner listed below at Customer No. 60148.

Respectfully submitted,



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